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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,713	10/29/2001	Johannes J. Mons	PHN 16-657A	5400
24737	7590	03/03/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			DINH, TAN X	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2653	17
DATE MAILED: 03/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/039,713	MONS, JOHANNES J.
<b>Examiner</b>	<b>Art Unit</b>	
TAN X. DINH	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 62 is/are allowed.
- 6) Claim(s) 31,40,41,50,51,56,58,63,64,79,80 and 94 is/are rejected.
- 7) Claim(s) 32-39,42-49,52-55,57,59-62,65-78,81-93 and 95 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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1) A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

2) Applicant's preliminary amendment filed on 2/12/2004 has been entered. Claims 1-30 have been canceled. New claims 31-95 are currently been added.

3) The disclosure is objected to because of the following informalities: The phrase "at last" ( claim 57, line 5 ) should be corrected as " at least ".

Appropriate correction is required.

4) The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed Terminal Disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered *attorney or agent* of record may sign a terminal disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5) Claims 31,40,41,50,51,56,58,63,64,79,80 and 94 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,16,23 of U.S. Patent No. 6,353,580. Although the conflicting claims are not identical, they are not patentably distinct from each other because.

Claims 31,51 and 63 in this instant application recites a method for storing information on an unitary storage medium including a Table-Of-Contents (TOC) access mechanism and a file-based access mechanism which is the same as claim 16 of U.S. Patent No. 6,353,580, *except* to specifically show that the audio information can be accessed using either TOC access mechanism or file-based access mechanism. However, claim 16 of U.S. Patent No. 6,353,580, lines 5-8 teaches that the Table-Of-Contents (TOC) access mechanism can be used for storing and accessing audio information, further, lines 9-12 teaches file-based access

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mechanism can be used for storing and accessing audio information. Since both of Table-Of-Contents (TOC) access mechanism and a file-based access mechanism in claim 16 can be used for storing and accessing the audio information as shown above, it strongly suggests for someone within the level of skill in the art at the time of the invention was made to access audio information using either Table-Of-Contents (TOC) or a file-based access mechanism as claimed.

Claims 41,56 and 79 in this instant application recites an unitary storage medium including a Table-Of-Contents (TOC) access mechanism and a file-based access mechanism which is the same as claim 1 of U.S. Patent No. 6,353,580, *except* to specifically show that the audio information can be accessed using either TOC access mechanism or file-based access mechanism. However, claim 1 of U.S. Patent No. 6,353,580, lines 4-7 teaches that the Table-Of-Contents (TOC) access mechanism can be used for storing and accessing audio information, further, lines 8-11 teaches file-based access mechanism can be used for storing and accessing audio information. Since both of Table-Of-Contents (TOC) access mechanism and a file-based access mechanism in claim 1 can be used for storing and accessing the audio information as shown above, it strongly suggests for someone within the level of skill in the art at the time of the invention was made to access audio information using either Table-Of-Contents (TOC) or a file-based access mechanism as claimed.

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Claim 58 adds the feature of optical reading means and disc driving means to claims 31,41,51,56,63 and 79 above which are inherently in optical disc drive of claims 1 and 16 of U.S. Patent No. 6,353,580 since the *optical reading means* (optical head) is an essential element for producing a read signal from optical disc and *disc driving means* is an essential element for moving the optical reading means (optical head) with respect to tracks during recording or reproducing signal.

Claims 40,50,77 and 94 recite a single TOC mechanism, which suggests in claim 23 of U.S. Patent No. 6,353,580.

Claim 64 recites a master TOC and sub-TOC, which suggests in claims 24 and 25 of U.S. Patent No. 6,353,580.

Claim 80 recites a master TOC and sub-TOC, which is suggested in claims 9 and 10 of U.S. Patent No. 6,353,580.

6) Claim 62 is allowable over prior arts of record.

7) Claims 32-39,42-49,52-55,57,59-61,65-78,81-93 and 95 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8) Applicant's arguments with respect to claims 31-95 have been considered but are moot in view of the new ground(s) of rejection.

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9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN X. DINH whose telephone number is (703) 308-4859. The examiner can normally be reached on Monday - Friday, 8:00AM - 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



TAN DINH  
PRIMARY EXAMINER

March 2, 2004